

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
NORTHERN DIVISION

**JOHNATHAN YASEVICH, et al.,
Each Individually and on Behalf
of All Others Similarly Situated**

PLAINTIFFS

vs.

No. 3:20-cv-19-KGB

**THE HERITAGE COMPANY, INC.,
and SANDRA FRANECKE**

DEFENDANTS

**MOTION TO SET ASIDE JOINT STIPULATION OF
PARTIAL DISMISSAL WITHOUT PREJUDICE AND ORDER OF DISMISSAL
RELATING THERETO**

Plaintiffs, by and through their attorneys Daniel Ford and Josh Sanford of Sanford Law Firm, PLLC, and for their Motion to Set Aside Joint Stipulation of Partial Dismissal Without Prejudice (ECF No. 29) and Order of Dismissal Relating Thereto (ECF No. 30), state and allege as follows:

1. On September 13, 2021, the parties engaged in mediation and reached a tentative agreement regarding settlement of the case, which resulted in a Notice of Settlement being filed. See ECF No. 28.
2. One condition of that tentative agreement was the dismissal of certain Plaintiffs who had only WARN Act claims.
3. In reliance on that agreement, Plaintiffs drafted and filed a Joint Stipulation of Partial Dismissal Without Prejudice, dismissing the claims of certain Plaintiffs who only had WARN Act claims. See ECF No. 29.
4. This Court then entered an order directing the clerk to dismiss those

certain Plaintiffs in accordance with the Joint Stipulation of Partial Dismissal. See ECF No. 30.

5. The only reason that Plaintiffs agreed to this dismissal was as a term which formed part of a compromise intended to settle the case.

6. This Court subsequently ruled that the agreement between the Parties was not a final, enforceable settlement, and the Parties resumed litigation with a new scheduling order and a reopened discovery period. See ECF No. 58.

7. Because this dismissal was premised on a settlement that was not enforced, this Court should set aside that dismissal and reinstate the claims of those Plaintiffs listed in ECF Nos. 29 and 30.

8. Defendants will not be prejudiced by the setting aside of the dismissal, as they have continued to conduct written and deposition discovery on WARN Act issues since the discovery period was reopened.

9. The dismissed Plaintiffs, however, would be prejudiced by a failure to reinstate their claims, as they are entitled to prove their claims in a trial that will already be adjudicating the WARN Act claims of numerous other Plaintiffs.

10. No delay would result from the relief requested in this Motion.

WHEREFORE, premises considered, Plaintiffs pray that the Court set aside the Parties' Joint Stipulation of Partial Dismissal (ECF No. 29), and for all other relief to which Plaintiffs may be entitled.

Respectfully submitted,

**JOHNATHAN YASEVICH,
et al., PLAINTIFFS**

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